

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
OXFORD DIVISION**

ARTHUR STEWART NICKENS

PLAINTIFF

VS.

CIVIL ACTION NO.: 3:13-cv-199-MPM-JMV

MILTON WILLIAMS, JR., ET AL.

DEFENDANTS

ORDER

This matter is before the court on motion of Defendant Jimmy Miller to dismiss the pro se amended complaint against him for, inter alia, its failure to state a cognizable claim [25]. The court has carefully reviewed the amended complaint [24] and finds the motion well taken.

This action arises from Plaintiff's wife's arrest in Quitman County for driving Plaintiff's vehicle under the influence of alcohol. As a result of the arrest, law enforcement requested Barringer Motor Co. to tow the vehicle involved. Subsequently, Barringer gave notice to the Plaintiff and sold the car for \$900 to recoup unpaid towing and storage fees of \$1000.

With regard to Mr. Miller, the amended complaint alleges he is an attorney for the county and its law enforcement officers and as such, "had a State law duty and responsibility [to] make sure that any vehicle seized by Law Enforcement be properly impounded and held for final disposition by a Court of law." Pl.'s Am. Compl. at 2. Plaintiff alleges Mr. Miller "failed to act or perform his State law responsibility and therefore aided in the forfeiture of plaintiff's [sic] vehicle by Barringer Motor Co. all without due process of law." *Id.*

This court has previously explained to the Plaintiff the heightened pleading standard under *Iqbal* and *Twombly* [22]. Accordingly, it will not repeat itself here, except to say the amended complaint against Mr. Miller falls woefully short of satisfying the standard. Indeed, this court is unaware of *any* legal duty on the part of a county attorney which could conceivably

arise from the circumstances involved here. And the amended complaint certainly does not identify any facts from which the court could plausibly discern such a duty.

IT IS, THEREFORE, ORDERED the complaint against Defendant Jimmy Miller be dismissed for failure to state a cognizable claim against him.

SO ORDERED, this the 2nd day of January, 2014.

/s/ Jane M. Virden
UNITED STATES MAGISTRATE JUDGE